

South Carolina General Assembly
122nd Session, 2017-2018

S. 890

STATUS INFORMATION

General Bill

Sponsors: Senators Davis, Fanning, Rice, Cromer, Leatherman, Talley, Timmons, Shealy, Jackson, Gregory, Senn and Turner

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Companion/Similar bill(s): 4796

Introduced in the Senate on January 11, 2018

Currently residing in the Senate Committee on **Judiciary**

Summary: Energy

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/11/2018	Senate	Introduced and read first time (Senate Journal-page 6)
1/11/2018	Senate	Referred to Committee on Judiciary (Senate Journal-page 6)

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VERSIONS OF THIS BILL

[1/11/2018](#)

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9 **A BILL**

10
11 TO AMEND TITLE 58 OF THE 1976 CODE OF LAWS,
12 RELATING TO PUBLIC UTILITIES, SERVICES AND
13 CARRIERS, BY ADDING CHAPTER 41, TO PROVIDE FOR
14 THE PROCUREMENT OF LOWEST-COST ENERGY FROM
15 INDEPENDENT POWER PRODUCERS; AND TO DEFINE
16 NECESSARY TERMS.

17
18 Be it enacted by the General Assembly of the State of South
19 Carolina:

20
21 SECTION 1. Title 58 of the 1976 Code is amended by adding:

22
23 “CHAPTER 41

24
25 Procurement of Lowest-Cost Energy from Independent Power
26 Producers

27
28 Section 58-41-10. This chapter may be cited as the ‘Energy
29 Freedom Act.’

30
31 Section 58-41-30. As used in this chapter:

32 (1) ‘AC’ means alternating current as measured at the point
33 of interconnection of the small power producer’s facility to the
34 interconnecting electrical utility’s transmission or distribution
35 system.

36 (2) ‘Avoided costs’ means an electrical utility’s most recently
37 approved or established avoided cost rates in this State for purchases
38 of electricity from qualifying facilities pursuant to Section 210 of
39 the Public Utility Regulatory Policies Act and this chapter.

40 (3) ‘Commission’ means the South Carolina Public Service
41 Commission.

(4) 'Electrical utility' shall be defined as set forth in Section 58-27-10(7) provided, however, that electrical utilities serving less than one hundred thousand customer accounts shall be exempt from the provisions of this chapter.

(5) 'PURPA' means the Public Utility Regulatory Policies Act of 1978, as amended.

(6) 'Small power producer' means a person or corporation owning or operating a 'qualifying small power production facility' as defined in 16 U.S.C. § 796, as amended.

(7) 'Standard offer' means avoided cost rates and power purchase agreement terms and conditions approved by the commission and applicable to purchases of energy and capacity by electrical utilities as provided in this chapter from small power producers up to five megawatts AC in size.

Section 58-41-40. (A) The commission shall conduct a proceeding not later than ninety days after the effective date of this act, and at least every two years thereafter, to review and approve electrical utilities' avoided cost methodologies, standard offers, and adherence to commission-approved interconnection standards and this chapter and to form power purchase agreements consistent with PURPA. Such proceedings shall be separate from the electrical utilities' annual fuel cost proceedings under Section 58-27-865 and shall include an opportunity for intervention, discovery, testimony, and an evidentiary hearing.

(B) In approving the avoided cost methodology, standard offer, and form contract for each electrical utility, the commission shall ensure that, to the extent possible, small power producers are treated on a fair and equal footing with electrical utility-owned resources through the provision of rates for the purchase of energy and capacity that fully and accurately reflect the electrical utility's avoided costs and power purchase agreement terms and conditions that are commercially reasonable and provide the small power producer a reasonable opportunity to attract capital. The commission shall also ensure that each electrical utility's avoided cost methodology fairly accounts for costs avoided by the electrical utility if the small power producer's facility includes energy storage equipment. Avoided cost methodologies proposed by electrical utilities and approved by the commission may account for differences in costs avoided based on the geographic location and resource type of a small power producer's facility.

(C) Every six months, each electrical utility shall submit to the commission for approval updates to the inputs used to calculate its

1 standard offer avoided cost rates based on the commission's
 2 approved avoided cost methodology. After providing interested
 3 parties the opportunity to participate fully in the proceeding, the
 4 commission shall establish updated standard offer avoided cost rates
 5 for the electrical utility.

6 (D) The avoided cost rates offered by an electrical utility to a
 7 small power producer not eligible for the standard offer shall be
 8 calculated based on the avoided cost methodology approved by the
 9 commission in its most recent proceeding. In the event that a small
 10 power producer and an electrical utility are unable to mutually agree
 11 on an avoided cost rate, the small power producer shall have the
 12 right to have any disputed issues resolved by the commission
 13 through arbitration or in a formal complaint proceeding.

14 (E) In each proceeding required by this chapter, the
 15 commission shall approve a standard offer power purchase
 16 agreement to be used by each electrical utility in purchasing energy,
 17 capacity, and other related services from small power producers
 18 eligible for the standard offer. In addition, the commission shall
 19 either require the use of the standard offer power purchase
 20 agreement or approve a separate form power purchase agreement to
 21 be used by each electrical utility in purchasing energy, capacity, and
 22 other related services from small power producers not eligible for
 23 the standard offer. The standard offer and form power purchase
 24 agreements approved by the commission pursuant to this section
 25 shall have an initial term of at least fifteen years, or longer if the
 26 commission deems it necessary in order to comply with subsection
 27 (B), and shall provide the small power producer the option of selling
 28 the output of its facility to the electrical utility at rates fixed for the
 29 initial term of the agreement.

30 (F) In no event shall a power purchase agreement approved
 31 by the commission or offered by an electrical utility to a small power
 32 producer:

33 (1) allow for curtailment by the electrical utility of
 34 generation from the small power producer's facility for any reason
 35 other than a system emergency as defined in PURPA and the
 36 PURPA regulations of the Federal Energy Regulatory Commission;

37 (2) allow the electrical utility to terminate the power
 38 purchase agreement or collect damages from the small power
 39 producer due to a delay in achieving commercial operation of the
 40 small power producer's facility if such delay is due to the electrical
 41 utility's delay in connecting the facility to its transmission or
 42 distribution system; or

(3) allow the electrical utility to charge, or reduce the price paid to, the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer, which costs shall be recoverable by the electrical utility as part of its annual fuel cost proceedings pursuant to Section 58-27-865.

(G) An electrical utility's standard offer avoided cost rates approved by the commission pursuant to this chapter shall serve as the electrical utility's avoided costs for the purpose of recovering fuel costs associated with an approved distributed energy resource plan as required under Section 58-27-865."

SECTION 2. Section 58-39-120(A) and (B) of the 1976 Code is amended to read:

"(A) 'AC' means alternating current, as measured at the point of interconnection of the ~~renewable energy~~ small power producer's facility to the interconnecting electrical utility's transmission or distribution system.

(B) 'Avoided costs' means ~~payments for purchases of electricity made according to an electrical utility's most recently approved or established avoided cost rates in this State or rates negotiated pursuant to PURPA, in the year the costs are incurred, for purchases of electricity from qualifying facilities pursuant to Section 210 of the Public Utility Regulatory Policies Act, said costs to be calculated as set forth in Section 58-39-140(A)(1)~~ costs as defined pursuant to Section 58-41-30(2)."

SECTION 3. This act takes effect upon approval by the Governor.

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